



Handbook for Leadership Contestants, Their Financial Agents and Auditors

EC 20194 (03/07)



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1. Introduction

1.1 Purpose and Scope of the Handbook

Elections Canada has prepared this handbook to help leadership contestants, their financial agents and auditors to comply with the provisions of the *Canada Elections Act*. It is written primarily for the financial agent, who should use it as a tool to manage the contestant's campaign. This handbook does not take precedence over the legislation, and it should be read in conjunction with the Act.

This handbook has eight main sections:

1. Introduction
2. Roles and responsibilities
3. Leadership campaign – procedures and documents
4. Contributions and other cash inflows
5. Leadership campaign expenses
6. Campaign reporting requirements
7. Closing out the campaign
8. Compliance and enforcement

1.2 Questions About This Handbook

You should direct any questions about this handbook to the Office of the Chief Electoral Officer, more commonly known as Elections Canada. You can reach us directly by telephone on the support line at 1 800 486-6563, or by e-mail through our Web site at www.elections.ca.


Leadership contestants and financial agents often require more technical information than the general public. Please identify yourself when you communicate with us, so that we can promptly put you in touch with the appropriate specialist.


Please bring all alleged violations of the *Canada Elections Act* to the attention of the Commissioner of Canada Elections, in writing, by mail to 257 Slater Street, Ottawa, Ontario, K1A 0M6 or by fax at (613) 990-4877. The Commissioner is responsible for compliance with and enforcement of the Act, and assesses each case in relation to the law.

1.3 Additional Reference Material

You should read this handbook in conjunction with the additional reference material provided by Elections Canada in our leadership contestants' kits. Many of the situations introduced in the handbook are illustrated, with examples, in the accompanying material.

1.4 Symbols Used Here

References to documents that you can download from the Elections Canada Web site (www.elections.ca) are followed by a  symbol. For example:

The *Contestant's Leadership Campaign Return* (EC 20192), which is referred to in subsection 2.2 of this handbook, is available on the Elections Canada Web site.

2. Roles and Responsibilities

2.1 Leadership Contestant

The provisions outlined here apply to all contestants in a leadership contest of a registered party.

Definition

A leadership contestant is a person whose name has been entered into the official registry of leadership contestants. Once confirmed, a leadership contestant remains a contestant until his or her financial agent has complied with all the financial reporting requirements of the Act. These include payment of any unpaid claims, filing any amended returns, and disposing of any surplus campaign funds.

[2(1) "leadership contestant"]

For financial purposes, a leadership contestant is deemed to be a contestant from the time he or she accepts any contributions or incurs any leadership campaign expenses.
[435.05(2)]

Responsibilities and Obligations

Appointing Leadership Campaign Agents

The leadership contestant may appoint leadership campaign agents who are authorized to accept campaign contributions and to incur and pay leadership campaign expenses for the leadership contestant. Within 30 days of appointing a leadership campaign agent, the contestant must report the person's name and address to the Chief Electoral Officer, along with any terms and conditions of the appointment. The contestant's financial agent – who is the primary leadership campaign agent – must certify this report.

[2(1) "leadership campaign agent", 435.08]

Personal Expenses

The contestant must submit a *Leadership Contestant's Statement of Personal Expenses* (EC 20197) form, with supporting documents, to the financial agent. He or she must do this within five months of the end of the contest, even if no expenses were incurred. The statement must include all personal expenses reasonably incurred in relation to the contest, and paid by the contestant and not reimbursed by the financial agent.

[435.03, 435.36(1)]

2.2 Financial Agent


A leadership contestant may have only one financial agent at a time. The financial agent is responsible for administering a contestant's campaign transactions and for reporting on those transactions in accordance with the Act.

[435.13, 435.2]

If a financial agent resigns, dies or is incapacitated, or if the appointment is revoked, the leadership contestant must immediately appoint a new agent. The contestant must notify the Chief Electoral Officer of the new appointment within 30 days, in writing, and must provide the name and personal address of the new agent. The contestant must also provide a declaration from the new agent, indicating his or her acceptance of the appointment and consent to act in that capacity.

[435.08(2), 435.11, 435.12]

Qualifications and Eligibility

To act as financial agent for a leadership contestant, a person must be capable of entering into contracts in the province or territory in which the person ordinarily resides. Beyond this minimum qualification, the financial agent should be capable of financial management. Managing finances for a leadership contestant is challenging: the task includes recording contributions, authorizing leadership campaign expenses, managing the petty cash account, preparing forms such as the *Contestant's Leadership Campaign Return* (EC 20192) , and disposing of any surplus funds. It is essential that the financial agent be dedicated to the role and willing to spend the necessary time to fulfill all obligations.

[435.09]


The following persons are not eligible to act as a financial agent for a leadership contestant:

[435.09]

- an election officer, or a member of the staff of a returning officer
- another leadership contestant
- an auditor appointed as required by the Act
- a person who is not qualified as an elector
- an undischarged bankrupt, or
- a person who does not have the capacity to enter into contracts in the province in which he or she ordinarily resides

Responsibilities and Obligations

Acceptance of Appointment

The financial agent must accept the appointment in writing, and this consent must be sent by the leadership contestant to the Chief Electoral Officer within 30 days of the appointment. The *Financial Agent's Checklist* (EC 20199)  outlines some of the financial agent's specific responsibilities.

[435.08(2), 435.11]

Campaign Bank Account

The Act requires the financial agent to open a separate bank account in a Canadian financial institution, or in an authorized foreign bank as defined in section 2 of the *Bank Act*. This account is for the sole purpose of the contestant's leadership campaign.

[435.21(1)]

The account must name the account holder as follows: "*(name of financial agent)*, financial agent." For example: Roland Jones, financial agent.

[435.21(2)]

All financial transactions of the contestant's leadership campaign must be paid from or deposited to this account.

[435.21(3)]

When the leadership contest is over, or following the withdrawal or death of the contestant, the financial agent must deal with any unpaid claims or surplus campaign funds in accordance with the Act.

[435.21(4)]

The financial agent must then close the account and provide the Chief Electoral Officer with a final statement.


[435.21(5)]

Books and Records

The financial agent is required to maintain all books and records of contributions and expenses. This includes:

- obtaining the name of the contributor if the amount of the contribution exceeds \$20, and if it exceeds \$200, obtaining both the name and address

[435.3(2)]

- obtaining the full name of the lender and the guarantor, if applicable, for all loans given to the campaign. A repayment schedule and a statement of conditions should also be prepared, signed and submitted by the financial agent. These requirements also encompass bank overdrafts and lines of credit used by the campaign
[435.3(5)]
- recording non-monetary contributions as both a contribution and an expense
[2(1) "leadership campaign expense"]
- issuing and controlling a *Receipt for a Contribution to a Leadership Contestant* (EC 20029) 
[404.4]

Elections Canada supplies the necessary copies of the books, records and forms that are available to financial agents on request, and are included in the leadership contestant's kit. Material is also available electronically on the Elections Canada Web site at www.elections.ca.

Incurring Leadership Campaign Expenses

Leadership campaign agents and leadership contestants are the only people authorized by the Act to incur leadership campaign expenses.
[435.22(4)]

Payment of Expenses

Financial agents and leadership campaign agents are the only people authorized by the Act to pay or to authorize the payments of leadership campaign expenses. The only exceptions are the personal expenses of the leadership contestant paid by the contestant, and expenses paid out of a petty cash fund by persons authorized in writing by the financial agent.
[411(1), 435.22(3), 435.22(5)]

Receipt of Contributions

The financial agent and other leadership campaign agents are the only people authorized to accept contributions to the campaign. This means that all money given to a canvasser or to the leadership contestant must be turned over to the financial agent or a leadership campaign agent for deposit in the account. Neither the leadership contestant nor any campaign worker may keep any part of that money to pay expenses.
[435.21(3), 435.22(1)]

Issuing Receipts

The financial agent or a leadership campaign agent must issue a *Receipt for a Contribution to a Leadership Contestant* (EC 20029) ²⁰ to acknowledge all contributions greater than \$20 to the leadership campaign. This requirement applies to both monetary and non-monetary contributions. A financial agent or a leadership campaign agent cannot issue receipts valid for income tax purposes for contributions to a leadership contestant's campaign.

[404.4]

A supply of receipts for contributions is available in the leadership contestant's kit.

Preparing Financial Returns

The financial agent must record all financial information for the preparation of the *Contestant's Leadership Campaign Return* (EC 20192) ²⁰, and for examination by the contestant's auditor.

[435.3]

2.3 Auditor

A leadership contestant must appoint an auditor who is qualified under the Act. The auditor must prepare a report when the contestant has accepted contributions totalling \$5,000 or more, or incurs total leadership campaign expenses of \$5,000 or more. When the auditor is appointed, the leadership contestant must obtain the auditor's signed consent to act in this capacity. The name and address of the auditor and the signed consent to act must be included in the contestant's application for registration.

[435.1, 435.33]

Eligibility of the Auditor

Only the following are eligible to be an auditor for a leadership contestant:


[435.1(1)]

- a person who is a member in good standing of a corporation, an association or an institute of professional accountants (CA, CGA or CMA)
- a partnership of which every partner is a member in good standing of a corporation, an association or an institute of professional accountants

Ineligible Persons

The following persons are not eligible to act as a leadership contestant's auditor:
[435.1(2)]

- an election officer or a member of the staff of a returning officer
- the chief agent of a registered or eligible party and the registered agent of a registered party
- a candidate or the official agent of a candidate
- the electoral district agent of a registered association
- a leadership contestant or the leadership campaign agent of a contestant
- a nomination contestant, or the financial agent of a nomination contestant
- the financial agent of a registered third party

For further information on who may be an auditor for a candidate, please see Information Sheet 25: *Who May Be an Auditor Under the Canada Elections Act.* 

Appointment Process

A report of the appointment of the auditor must:

- be in writing
- include the auditor's name and mailing address
- if a firm, include the name of the contact person
- include the effective date of the appointment
- be accompanied by the auditor's signed consent to act in this capacity

Change in Auditor

If an auditor resigns, dies or becomes incapacitated, or if the appointment is revoked, the leadership contestant must immediately appoint a new auditor. The contestant must notify the Chief Electoral Officer of the new appointment within 30 days, in writing, and must provide the name and personal address of the new auditor. The contestant must also provide a signed document from the new auditor, indicating his or her consent to act in that capacity. A contestant may have only one auditor at a time.
[435.12, 435.13, 435.15]

Auditor's Right of Access to Documents

The auditor must have access, at any reasonable time, to all documents of the leadership contestant, and may require him or her (or his or her financial agent) to provide any necessary information or explanation to enable the auditor to prepare the audit report.

[435.33(3)]

Responsibilities and Obligations

If the leadership contestant has accepted contributions totalling \$5,000 or more, or incurred leadership campaign expenses totalling \$5,000 or more, the auditor must:

- examine the books, records, invoices, bank statements and negotiated cheques, and perform the tests and verification necessary to permit the completion of the auditor's report in accordance with generally accepted auditing standards
- prepare a report to the financial agent stating whether the return accurately presents the financial transactions contained in the books and records of the leadership contestant

[435.33(1)]

[435.33(2)]

Auditors' Fees

The Act does not provide for any subsidy to cover the auditor's fees. The financial agent should treat the auditor's fees in the same way as any other leadership campaign expenses.

[2(1) "leadership campaign expense"]

Roles and Responsibilities

3. Leadership Campaign: Procedures and Documents

3.1 Notice of Leadership Contest

If a registered party proposes to hold a leadership contest, the chief agent of the party must file a statement with the Chief Electoral Officer setting out the beginning and ending dates of the contest.

[435.04(1)]

Any registered party that chooses to vary the leadership contest period, or to cancel the contest, must file a statement with the Chief Electoral Officer stating the amended beginning or ending date, or the fact that it has cancelled the contest.

[435.04(2)]

The Chief Electoral Officer will publish the notice containing this information in a manner that he or she considers appropriate.

[435.04(3)]

3.2 Registration of Leadership Contestants

Any person who accepts a contribution or incurs an expense in relation to his or her campaign for leadership of a registered party must register as a leadership contestant by completing and submitting the *Application for Registration as a Leadership Contestant* (EC 20245) to the Chief Electoral Officer. A person is deemed to be a contestant from the time he or she accepts a contribution or incurs a leadership campaign expense.

[435.05]

Contents of the Registration Application

An application to register as a leadership contestant must include the following information:

[435.06(1)]

- the name of the leadership contestant
- the address where the records of the contestant are maintained, and to which communications may be addressed
- the name and address of the contestant's financial agent
- the name and address of the contestant's appointed auditor

The leadership contestant must also include the following documents in the registration application:

[435.06(2)]

- the signed consent of the financial agent to act in that capacity
- the signed consent of the auditor to act in that capacity
- a declaration, signed by the chief agent of the registered party holding the leadership contest, certifying that the party accepts the applicant as a leadership contestant
- a statement containing the amounts, dates and numbers of contributions received by the contestant before the application for registration was submitted, and the name and address of each contributor who gave more than \$200 in total, by filing the *Leadership Contestant Registration Report* (EC 20209) ✓

Registry of Leadership Contestants

The Chief Electoral Officer maintains a registry of leadership contestants, which contains all the information required in a contestant's registration application.

[435.07]

Changes in Registered Information

Within 30 days of a change in the information contained in the registry of leadership contestants, the leadership contestant must report the change in writing to the Chief Electoral Officer by filing the *Report of changes to the information in the Registry of Leadership Contestants* (EC 20047) ✓. The Chief Electoral Officer will enter this new information into the registry of leadership contestants.

[435.15(1), 435.15(3)]

3.3 Withdrawal of a Leadership Contestant

A leadership contestant who withdraws from a leadership contest must file with the Chief Electoral Officer a signed statement indicating his or her withdrawal by filing the *Notice of Leadership Contestant Withdrawal* (EC 20248) ✓. The Chief Electoral Officer will amend the information in the registry of leadership contestants accordingly.

[435.16]

Notice of Withdrawal of Acceptance

If a registered party withdraws its acceptance of a leadership contestant, it must file a written statement, *Notice of Party Withdrawal of Acceptance of a Leadership Contestant* (EC 20249) [✓], with the Chief Electoral Officer to that effect, signed by the chief agent of the party and indicating the date of the withdrawal. The Chief Electoral Officer will amend the information in the registry of leadership contestants accordingly.
[435.17]

Relieved of Obligations

If a leadership contestant withdraws from the leadership contest, or if his or her acceptance is withdrawn by the registered party, the contestant is relieved of the obligation to provide the *Contestant's Weekly Leadership Campaign Return* (EC 20193) [✓] for any period after the withdrawal.
[435.18]

Remaining Reporting Obligations

A leadership contestant remains a leadership contestant until he or she has complied with all of the requirements of the *Canada Elections Act* with respect to the leadership contest. (See the definition of a leadership contestant in section 2 of the Act.) Until financial obligations referred to in sections 435.3 to 435.47 of the Act have been complied with, an individual who withdraws from the leadership contest is subject to all applicable rules contained in the Act, including those dealing with eligibility, limits and disclosure of contributions, the need to file a final *Contestant's Leadership Campaign Return* (EC 20192) and the disposal of surplus.

Notification of Party

If the Chief Electoral Officer becomes aware that a leadership contestant of a registered party has failed to comply with any requirement related to the registration and financial administration of leadership contestant, he or she will notify the party accordingly.
[435.19]

4. Contributions and Other Cash Inflows

4.1 Contributions

Definition

A contribution means a monetary or a non-monetary contribution.
[2(1) "contribution"]

Monetary Contributions

A monetary contribution is an amount of money provided that is not repayable.
[2(1) "monetary contribution"]

Non-Monetary Contributions

A non-monetary contribution is the commercial value of a service or of property or the use of property or money, with the exception of volunteer labour, provided without charge or at less than commercial value.
[2(1) "non-monetary contribution"]

Non-monetary contributions received by the financial agent or the leadership contestant agent are also leadership campaign expenses.
[2(1) "leadership campaign expense"]

Illegal Contributions

It is illegal for anyone to solicit or accept a contribution on behalf of a leadership contestant if that person or organization made a representation that any part of the contribution would be transferred to a person or entity other than the registered party, a candidate, leadership contestant or electoral district association. It is also illegal for anyone to collude with someone else to circumvent this prohibition.
[405.21]

Eligible Contributors

Only an individual who is a Canadian citizen, or a permanent resident of Canada as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*, can make a contribution to a leadership contestant.
[404(1)]

Leadership contestants may accept contributions from individuals and directed contributions from individuals through their registered party. There are limits to the amount that individuals can contribute to a leadership contestant's campaign.

[404.3(3), 405(1)]

A person is prohibited from making a contribution to a leadership contestant that comes from the money, property or services of another person or entity, if that other person or entity gave it to the contributor for the purposes of making a contribution.

[405.3]

For additional information on the prohibition on making indirect contributions, please see Information Sheet 10: *Making Contributions Using Money, Property or Services Given to One by Another for that Purpose* ¹⁶.

Identification of Contributors

The financial agent must report all contributions to the leadership contestant's campaign.

[435.3(2)(f)]

The financial agent must disclose the name and address of any contributor who makes an aggregate contribution to a leadership contestant in excess of \$200, and the amount and date on which each contribution was received.

[435.3(2)(e)]

When a directed contribution from an individual is made through a registered party, and is later transferred to a leadership contestant, the financial agent must provide in the contestant's return.

[435.3(2)(f)]

- the name and address of the contributor
- the amount and date of the contribution
- the amount of the directed contribution
- the amount of the transfer from the party
- the date of the transfer

Acceptance of a Contribution

A monetary contribution is deemed to be accepted when it comes into the hands of the financial agent or a leadership campaign agent. For a non-monetary contribution, the contribution is deemed to be accepted when the financial agent or a leadership campaign agent authorizes the use of the property or service.

[435.21(3), 435.22]

Cash Contribution Limit

It is prohibited, for an individual, to make a cash contribution in an amount that exceeds \$20.

[405.31]

Ticketed fundraising functions

A ticketed fundraising activity is a function – such as a dinner or cocktail party – held by selling tickets for the purpose of soliciting contributions for a leadership contestant. The amount of the contribution is the difference between the price of the ticket and the fair market value of what the ticket entitles the purchaser to obtain.

[408]

The financial agent must issue a receipt for the contribution portion of the admission price. This amount is a contribution made by the contributor. For all single or aggregate contributions in excess of \$200, the financial agent must report the name and address of the contributor as well as the amount of the contribution.

[2(1) "contribution", 408]

For example, if the financial agent organizes a dinner with a fair market value of \$45 per attendee, and charges \$250 for admission to the function, he or she must issue a receipt for \$205 to each ticket purchaser. In **part 2a** of the leadership contestant's return, the financial agent must record the name, address and the amount of \$205 as contribution for each individual purchasing a ticket. The difference between the ticket price and the contribution is reported as "other cash inflow" in **part 2f**.

[2(1) "contribution", 404.4(1), 408]

Volunteer Labour

Volunteer labour is **not** considered a non-monetary contribution. Volunteer labour is defined as "any service provided free of charge by a person outside their working hours, but does not include such a service provided by a person who is self-employed if the service is one that is normally charged for by that person."

[2(1) "volunteer labour"]

Assets

Leadership contestants and financial agents may use assets (such as computers) during a contest. The value of the assets used, and the expense to be recorded, must reflect the commercial value of the use. Commercial value is defined in the next section.

Asset received in the form of a contribution or transfer to the campaign

If an asset is received by the campaign in the form of a contribution or transfer, the amount to be recorded as a contribution or transfer must be the full commercial value of the asset. However, the amount to be reported as a campaign expense subject to the limit must be the equivalent commercial value of renting a similar asset for the same period during the contest.

Under no condition should amortization be used as a method of calculating the amount of contributions, expenses or transfers to be reported.

Commercial value

Commercial value is defined as the lowest amount charged at the time that a property or service was provided for the same kind and quantity of property or service, or for the same usage of property or money, by:

- the person who provided it, if the person is in the business of providing that property or service, or
- another person who provides that property or service on a commercial basis in the area where it was provided, if the person who provided the property or service is not in that business

When goods or services are provided without charge or for less than commercial value, and the goods or services are used directly to promote the leadership contestant during a leadership contest, the financial agent must record the commercial value of the goods or services as a leadership campaign expense of the leadership contestant, as well as a contribution.

[2(1) "leadership campaign expense"]

However, the commercial value of goods or services with a value of \$200 or less that are provided free of charge by a person who does not supply these goods or services commercially is deemed to be nil – it is neither a contribution nor an expense.

[2(2)]

For example, if a homeowner who is not a contractor supplies construction material worth \$175 left over from the renovation of his or her home, the goods would not be considered an election expense or a contribution.

When a contribution of goods or services is made, the financial agent must issue a receipt for and record such contributions in the leadership contestant's return, at commercial value.

Miscellaneous Contributions

Contributions by Leadership Contestant

A leadership contestant is permitted to contribute to his or her own campaign, from his or her own funds, through the financial agent. Any such money is considered to be a contribution.

[404.2(1)]

Unpaid Claims

With some exceptions, if an unpaid claim remains wholly or partly unpaid on the day that is 18 months after the end of the leadership contest, it is deemed to be a contribution to the leadership contestant, made on the day the expense was incurred and is subject to contribution limits.

[435.29(1)]

Contribution Limits

Any individual who is a Canadian citizen or permanent resident of Canada may make these contributions:

- up to \$1,000 in total in any calendar year to a particular registered party
- up to \$1,000 in total in any calendar year to the registered associations, nomination contestants and candidates of a particular registered party
- up to \$1,000 in total to a candidate for a particular election who is not the candidate of a registered political party
- up to \$1,000 in total to the leadership contestants in a particular leadership contest

[405(1)]

The Act provides for maximum contribution limits of \$1,000, subject to an inflation adjustment on April 1 of each year. On January 1, 2007, the contribution limits were adjusted by the April 1, 2006, inflation factor and therefore established at \$1,100. For more information on current contribution limits, go to www.elections.ca > Election Financing > General Information on Election Financing > Limits on Contributions.

[405.1]

There is no limit to a contribution made in an individual's will as an unconditional, non-discretionary testamentary disposition.

[405(2)]

Additional Contribution Limit for Leadership Contestants

A leadership contestant may also contribute an additional \$1,000 out of his or her own funds to his or her own campaign, which does not count against their personal contribution limit. This additional contribution is **not** subject to the inflation adjustment factor.

[404.2(1), 405(4)]

Responsibilities for Contribution Limits

The financial agent or a leadership campaign agent must not knowingly accept contributions that exceed the limits set out in the Act. However, the financial agent or leadership campaign agent is not personally responsible for verifying that a contributor has not exceeded his or her total contribution limit for the year when accepting contributions from the contributor. A contribution received in excess of an individual's limits must be returned to the contributor, or if this is not possible, it must be paid to the Chief Electoral Officer, who must forward it to the Receiver General for Canada.

[404(2), 405.2(3)]

No Official Tax Receipts for Contributions

The financial agent and the leadership campaign agents of a leadership contestant cannot issue official tax receipts for monetary or non-monetary contributions received. The leadership contestant's kit does not contain any official tax receipts.

[*Income Tax Act*, 127(3)]

Anonymous and Ineligible Contributions

Anonymous

The following are anonymous contributions, whether monetary or non-monetary:

[435.32]

- contributions exceeding \$20 for which the financial agent or a leadership campaign agent does not have the name of the contributor
- contributions exceeding \$200 in total for which the financial agent or a leadership campaign agent does not have the name and address of the contributor

The financial agent must, without delay, pay the amount of any anonymous contribution (or, in the case of an anonymous non-monetary contribution, an amount equal to its commercial value) to the Chief Electoral Officer. The Chief Electoral Officer will in turn forward the amount to the Receiver General for Canada.

[435.32]

Any anonymous contribution that was accepted by the financial agent must also be disclosed in **part 2d** of the *Contestant's Leadership Campaign Return* (EC 20192) ¹.
[435.3(2)(h)]

Anonymous contributions of \$20 or less may be solicited at a meeting through a "collection plate" or "passing-the-hat." Where this occurs, the financial agent must record the following:

- a description of the function at which the contributions were collected
- the date of the function
- the approximate number of people at the function
- the total amount of anonymous contributions accepted

However, the financial agent must take measures to ensure that he or she does not accept contributions from ineligible contributors.

The form *General Solicitation Contributions Record Keeping – Anonymous Contributions of \$20 or Less* (EC 20154) ¹ is designed to help the financial agent keep track of these contributions.

The financial agent must enter the total of contributions received from such a collection under the category *Anonymous contributions from general solicitation at a meeting or fundraising event of \$20 or less* in **part 2a** of the *Contestant's Leadership Campaign Return* (EC 20192) ¹.

If it is apparent that someone placed an amount exceeding \$20 in the collection, then that contribution must be returned to the contributor or forwarded to the Chief Electoral Officer.

[435.32, 404.4(2)]

Ineligible contributions

The following are ineligible contributions, whether monetary or non-monetary:
[404(1), 405(1)]


- contributions from individuals who are not Canadian citizens or permanent residents, as defined in subsection 2(1) of the *Immigration and Refugee Protection Act*
- contributions from corporations
- contributions from trade unions
- contributions from unincorporated associations
- contributions in excess of the contribution limits set in the Act

A financial agent must return an ineligible contribution unused to the contributor within 30 days after becoming aware of the ineligibility.

[404(2)]

If it is not possible for the financial agent to return an ineligible contribution to the contributor, the agent must pay the amount of it (or in the case of a non-monetary contribution, an amount equal to its commercial value) to the Chief Electoral Officer. The Chief Electoral Officer will in turn forward the amount to the Receiver General for Canada.

[404(2)]

The financial agent must also disclose any returned contributions that were deposited in the leadership campaign bank account in **part 2d** of the *Contestant's Leadership Campaign Return* (EC 20192) .

[435.3(2)(h)]

4.2 Loans

Interest on loans incurred after the start of a leadership contest is a leadership campaign expense, whether the interest is payable or accrued.

If the interest rate being charged on a loan is less than a commercial interest rate, the financial agent must record a non-monetary contribution from the lender equal to the foregone interest on the loan.

The full name and address of the lender and name of the guarantor, if applicable, for all loans given to the campaign, amount of interest or discount and the principal of the loan must be disclosed in the *Contestant's Leadership Campaign Return* (EC 20192) ^(b). To help account for loans and the associated interest expense properly, please refer to the *Loans Control Sheet* (EC 20156) ^(b).

[435.24(1), 435.3(5)]

If an overdraft or line of credit was used, the name and address of the financial institution, the interest rate and the maximum amount drawn on the overdraft or line of credit must be reported in the *Contestant's Leadership Campaign Return* (EC 20192) ^(b).

4.3 Transfers from Registered Parties and Registered Associations

The financial agent or a leadership campaign agent of a leadership contestant cannot accept a transfer of goods or services from a registered party or an association of a registered party unless the goods or services are offered equally to all contestants.

[404.3(1)]

Transfers of funds from registered parties and associations are strictly prohibited. This prohibition includes any funds loaned to the leadership contestant by registered parties or associations of a registered party. However, it does not cover the transfers of directed contributions from individuals by a registered party. A directed contribution is all or part of a contribution made to a registered party that the contributor requests in writing to be transferred to a particular contestant.

[404.3(2), 435.22(2)]

Responsibility of Financial Agent

The financial agent must include in the *Contestant's Leadership Campaign Return* (EC 20192) ^(b) a statement of the commercial value of all goods or services provided to the contestant by registered associations and registered parties. The agent must also include a similar statement for transfers of directed contributions from individuals to the leadership contestant from registered parties.

[435.3(2)(f), 435.3(2)(g)]

Contributions and Other Cash Inflows

5. Leadership Campaign Expenses

5.1 Definition

A leadership campaign expense is any expense reasonably incurred by, or on behalf of, a contestant during a leadership contest as a consequence of the contest. These include personal expenses as defined in section 435.03 of the Act.

[2(1) "leadership campaign expense"]

5.2 Leadership Campaign Expenses Other Than Personal Expenses

Categorizing Expenses

There are two categories of expenses that may be incurred because of a leadership campaign: personal expenses, as defined by section 435.03, and other leadership campaign expenses.

[435.03]

Expenses That Meet the Definition of Leadership Campaign Expenses

To be considered leadership campaign expenses, goods or services (whether purchased or donated) must be incurred during the contest by the leadership contestant, or on his or her behalf, as a reasonable consequence of the contest.

[2(1) "leadership campaign expense"]

Examples of Expenses

Examples of leadership campaign expenses include:

- the production of advertising or promotional material and its distribution, broadcast or publication in any media or by any other means
- the payment of remuneration and expenses to, or on behalf of, a person for his or her services as a financial agent, as a leadership campaign agent, or in any other capacity
- the cost of securing a meeting space or supplying light refreshments at meetings

Volunteer Labour

Volunteer labour is any service provided free of charge by someone outside the person's normal working hours. It does not include service provided by a person who is self-employed, if the service is one that is normally charged for by the volunteer. The financial agent does not need to report the commercial value of volunteer labour. [2(1) "volunteer labour"]

Examples of volunteer labour are:

- a sign painter who is not self-employed working outside his or her normal working hours to paint signs for the campaign
- a secretary employed by a local business who is on an annual leave or compensatory leave, working as a secretary in the campaign office
- a self-employed insurance salesman working for the campaign free of charge doing door-to-door canvassing
- unemployed or retired persons working at any time

The service of a person who is self-employed is not volunteer labour if the service is one for which that person normally charges. An example of donated labour that the financial agent must report as a contribution and a leadership campaign expense is that of a self-employed printer who prints material free of charge that promotes the contestant. The commercial value of this material is a contribution and a campaign expense from the first dollar, and must be authorized by the financial agent or a leadership campaign agent.

[2(2), 435.22(1)]

Actual incidental expenses of volunteers for things such as meals, lodging and transportation, if paid by the campaign, are considered as leadership campaign expenses if incurred during the campaign period. These expenses must be reported as such in the *Contestant's Leadership Campaign Return* (EC 20192) ^(b) and supported by vouchers. Travelling costs of volunteers for travel on the campaign accounted for on a kilometre basis are also considered leadership campaign expenses if incurred during the campaign period, provided they are supported by a log.

[2(1) "leadership campaign expense," 2(2)]

Expenses of Senators and Elected Members

Where a senator, or a person who is an elected member of the House of Commons or any provincial legislature, campaigns on behalf of a leadership contestant, the expenses related to that person's involvement in the campaign are leadership campaign expenses of the contestant and must be authorized beforehand by the financial agent.

[2(1) "leadership campaign expense"]

For example, if a minister or other member of Parliament travels from Ottawa to assist in the contestant's campaign, the costs of travelling to the district, and the costs of accommodation and transportation within the district, are considered leadership campaign expenses of the contestant.

However, if travel to the leadership contestant's electoral district includes official ministerial business above and beyond assisting in the contestant's campaign, the leadership contestant must allocate only a proportion of the cost of the trip as a leadership campaign expense. The basis of this allocation should be the proportion of time spent on each activity.

Elections Canada will accept the basis of allocation used by the financial agent or the leadership campaign agent, provided that it is reasonable, in the opinion of the Chief Electoral Officer, and provided that the auditor agrees that the allocation is reasonable and in keeping with this handbook.

The financial agent or the leadership campaign agent must pay the expenses of senators and elected members incurred while campaigning for a leadership contestant because senators and elected members of Parliament are not eligible contributors to a leadership contestant's campaign other than as individuals.
[404(1), 404.1(3)]

Exempt staff of Ministers and Employees of Party Leaders and Parties

If exempt staff of ministers, and employees of party leaders and parties, engage in political activities, the costs related to the involvement of those persons in the campaign during normal working hours are leadership campaign expenses. Expenses related to exempt staff employed in these categories while involved in the campaign of a leadership contestant must be paid by the financial agent or a leadership campaign agent because they are not eligible contributors to a contestant's campaign other than as individuals.
[2(1) "leadership campaign expense," 404(1), 404.1(3)]

For example, if a member of a minister's exempt staff engages in leadership campaigning work for the minister, or for any other leadership contestant, during normal working hours, a proportionate share of that person's salary – together with any direct costs, such as travel and living expenses – must be included as a leadership campaign expense. However, exempt staff of ministers should check the rules governing their political activities.

Assets and Other Items

Leadership contestants and financial agents may use assets (such as computers) during a leadership contest. The value of the assets used, and the expense to be recorded, must reflect the commercial value of the use. Commercial value is defined later in this section.

Asset purchased by the campaign

If an asset is purchased by the campaign and used during the leadership contest, the value of the asset for the purpose of calculating the amount of the campaign expense must be the equivalent commercial value of renting a similar asset for the same period during the leadership contest period.

Asset received in the form of a contribution or transfer to the campaign

Similarly, if an asset is received by the campaign in the form of a contribution or transfer, the amount to be recorded as a contribution or transfer must be the commercial value of the asset. However, the amount to be reported as a campaign expense must be the equivalent commercial value of renting a similar asset for the same period during the leadership contest.

Low-value items

It is important to note that for low-value items purchased such as office supplies, the full cost (commercial value) of the item must be recorded as a campaign expense if used during the leadership contest period.

Under no condition should amortization be used as a method of calculating the amount of contributions, expenses or transfers to be reported.

Installation charges and other expenses to set up an office

Installation costs incurred for items used during the leadership contest period are campaign expenses if the item itself is a campaign expense. For example, the full installation costs of telephones, computers, faxes, etc. are campaign expenses regardless of when the installation takes place.

Similarly, expenses incurred to set up an office that are necessary to make it functional (e.g. leasehold improvements) are campaign expenses and cannot be pro-rated.

Under no condition should amortization be used as a method of calculating the amount of contributions, expenses or transfers to be reported.

Commercial value

Commercial value is defined as the lowest amount charged at the time that a property or service was provided for the same kind and quantity of property or service, or for the same use of property or money, by:

- the person who provided it, if the person is in the business of providing that property or service, or
- another person who provides that property or service on a commercial basis in the area where it was provided, if the person who provided the property or service is not in that business

When goods or services are provided without charge or for less than commercial value and the goods or services are used to directly promote the leadership contestant during a leadership contest, the financial agent must record the commercial value of the goods or services as a leadership campaign expense of the leadership contestant as well as a contribution.

[2(1) "leadership campaign expense"]

However, the commercial value of goods or services with a value of \$200 or less that are provided free of charge by a person who does not supply these goods or services commercially is deemed to be nil – it is neither a contribution nor an expense.

[2(2)]

For example, if a homeowner who is not a contractor supplies construction material worth \$175 left over from the renovation of his or her home, the goods would not be considered a campaign expense or a contribution.

When a contribution of goods or services is made, the financial agent must issue a receipt for and record such contributions in the contestant's return, at commercial value.

Payment of Accounts

Liability for Contracts

Unless a contract is entered into by the financial agent or a leadership campaign agent, a claimant cannot demand payment from the contestant. All bills for campaign-related expenses are the responsibility of the contestant. The financial agent is not personally responsible for campaign debts. However, a leadership contestant may apply to a judge for an order that relieves the contestant from any liability under an Act of Parliament in relation to an act or omission of the contestant's financial agent if he or she establishes that the act occurred without his or her knowledge or that he or she exercised all due diligence to avoid its occurrence.

For instance, a contract to purchase radio advertising time entered into by a leadership campaign volunteer who did not have the authorization of a leadership campaign agent or the leadership contestant would not be the responsibility of the contestant at the end of the leadership contest, if this expense remained unpaid.

[435.25, 435.41]

Presentation of Accounts

Within three months after the end of a leadership contest, any person with a claim to be paid for a contest-related expense must send the invoice or other document supporting the claim to the financial agent or directly to the contestant if there is no financial agent. [435.23(1), 435.23(2)]

A claimant is barred from recovering a claim if he or she sends an invoice or other document supporting the claim more than three months after the end of the leadership contest unless the claimant, the leadership contestant or the financial agent applies for, and is granted, an authorization from the Chief Electoral Officer for the late submission. [435.23(2), 435.26]

If the authorization is refused, or its conditions cannot be met, the claimant, the financial agent or the leadership contestant may apply to a judge to authorize the payment of a claim by the leadership contestant through the financial agent. [435.27]

It is an offence for the financial agent to fail to pay a claim in a timely manner. [435.24, 497(1)(4.09)]

If a claimant dies before the end of the three-month period without having sent the invoice or other document supporting the claim, a new three-month period begins on the day on which the claimant's legal representative becomes entitled to act for the claimant. [435.23(3)]

Deadline for Payment

A claim that has been sent to the financial agent within three months after the end of the leadership contest must be paid within 18 months after the end of the leadership contest. [435.24(1)]

Unpaid Claims

If an authorized agent has not paid an invoice within 18 months after the end of the leadership contest, the unpaid claim can only be paid following an authorization from the Chief Electoral Officer obtained by the leadership contestant, the financial agent or the claimant. [435.26(1)]

If the Chief Electoral Officer refuses an authorization, or its conditions cannot be met, the leadership contestant or the financial agent may apply to a judge to authorize the

payment of a claim.
[435.27]

Payment of Unpaid Claims


When the Chief Electoral Officer authorizes a claim to be paid, the financial agent, after submitting the leadership contestant's return, must then submit to the Chief Electoral Officer an updated version of the *Contestant's Leadership Campaign Return* (EC 20192) within 30 days of making the payment.
[435.35(3)]

With some exceptions, if a claim remains unpaid in whole or in part on the day that is 18 months after the end of the leadership contest, the unpaid claim is deemed to be a contribution to the leadership contestant made on the day the expense was incurred and is subject to contribution limits. Such claims will be published by the Chief Electoral Officer.
[435.29(1), 435.29(4)]

Disclosure and Reporting Requirements

General

If a leadership campaign expense of \$50 or more is incurred on behalf of the contestant by a leadership campaign agent or by a person authorized in writing by one of the agents, the agent or other person must keep a copy of the invoice prepared by the person who provided the goods or services to which the expense relates, together with proof that the invoice was paid.

The *Voucher Cover Page Template*  is designed to help the financial agent organize the campaign vouchers.
[410(1), 411(1)(d)]

If a leadership campaign expense of less than \$50 is incurred on behalf of the contestant by a leadership campaign agent or by a person authorized in writing by one of the agents, the person who made the payment must keep a record of the nature of the expense, together with proof that it was paid.
[410(1), 411(1)(d)]

Non-Monetary Contributions

When a financial agent or a leadership campaign agent receives a non-monetary contribution from an individual, he or she must obtain complete documentation about the commercial value of the goods or services as well as the name and address of the individual contributing. If the commercial value of the contribution is more than \$20, a receipt must be issued. The financial agent must then report the amount both as a contribution and as a leadership campaign expense (subject to the definition of

commercial value) in the *Contestant's Leadership Campaign Return* (EC 20192) [~].
[2(1) "commercial value", 2(2), 404.4(1), 435.3(2)(a)]

Supporting Documentation

Within six months after the end of the leadership contest, the financial agent must file the following with the Chief Electoral Officer in support of the *Contestant's Leadership Campaign Return* (EC 20192) [~]:

[435.3(1)(a), 435.3(3), 435.3(6), 435.36(1)]

- all documents evidencing expenses set out in the return, including bank statements, deposit slips and cancelled cheques
- the leadership contestant's written statement concerning personal expenses referred to in subsection 435.36(1)
- the auditor's report on the return, if required

5.3 Leadership Contestant's Personal Expenses

Incremental Concept

The personal expenses of a leadership contestant are those expenses incurred by or on behalf of a leadership contestant in relation to a leadership campaign.

Other campaign workers may use the goods or services acquired for the use of the leadership contestant, provided that there are no additional costs involved. They are still considered personal expenses of the contestant. However, if in any situation costs are in excess of those the contestant would normally incur because of the involvement of campaign workers, these additional costs must be charged as a leadership campaign expense.

For example, if the financial agent rents a minibus for the leadership contestant and several campaign workers, the agent must record as a leadership campaign expense the difference between the commercial value of renting a normal passenger car, and the commercial value of the vehicle actually rented.

Personal expenses include incremental expenses: expenses that the contestant would not normally incur had there not been a leadership contest. For example, the costs of day-to-day meals at home are not related to a contest, whereas a contestant who had to relocate because of the contest might incur incremental expenses for the costs of meals.

In all cases, the amounts charged as personal expenses of the leadership contestant must be incremental, reasonable and incurred by the contestant or by the financial agent for the sole benefit of the contestant. The Chief Electoral Officer will review the expenses to determine if they are reasonable.

[435.03]

Categories

Examples of personal expenses of the leadership contestant are:

- transportation costs
[435.03(a)]
- costs of temporary lodging necessary for the leadership contest
[435.03(a)]
- costs of meals and incidental expenses related to the campaign
[435.03(a)]
- other necessary related personal expenses, including child care expenses, expenses relating to the provision of care for a person with a physical or mental incapacity for whom the contestant normally provides such care, and for a contestant who has a disability, personal expenses related to the disability that are incurred as a result of the campaign
[435.03(b), 435.03(c), 435.03(d)]

For more details on these categories, see the *Leadership Contestant's Statement of Personal Expenses* (EC 20197) in the leadership contestant's kit.

5.4 Amounts Not Included in Leadership Campaign Expenses

Certain expenses incurred during the leadership contest should not be included as leadership campaign expenses and should be reported in **part 3b** of the *Contestant's Leadership Campaign Return* (EC 20192).

[2(1) "leadership campaign expense"]

Unused Inventory

As an example of an expense that would not be included in the leadership campaign expenses return, any material that was not used during the leadership contest period and remains on hand after the end of the contest is not deemed to have benefited the leadership contestant, and hence is not a leadership campaign expense. This material includes the residual value of assets purchased by the financial agent or the leadership campaign agent, and should be retained because it is subject to examination by the auditor.

[2(1) "leadership campaign expense"]

5.5 No Reimbursement of Expenses

No Reimbursement of Leadership Campaign Expenses

Leadership contestants are not reimbursed by Elections Canada for the leadership campaign expenses they incur over the course of a leadership contest.

Payment of Auditor

Leadership contestants or the financial agents or the leadership campaign agents are responsible for paying any fees charged by their auditors because the fees will not be reimbursed by Elections Canada. We recommend that leadership contestants have the auditor confirm the audit fees in writing, on appointment of the auditor.
[435.22(3), 435.22(4)]

6. Campaign Reporting Requirements

6.1 Reporting Process

First Contestant's Weekly Leadership Campaign Return form

For the period beginning on the first day of the leadership contest and ending on the day that is four weeks before the end of the contest, the financial agent of a contestant must send the *Contestant's Weekly Leadership Campaign Return* (EC 20193) [✓] to the Chief Electoral Officer. This return sets out the amounts of contributions, loans and transfers of goods and services as well as any monetary amounts transferred by the leadership contestant to the registered party or registered association and contributions received but returned to the contributor or sent to the Chief Electoral Officer. The financial agent must submit the return to the Chief Electoral Officer no later than one week after the end of the period to which the return relates.

[435.31(1)]

Next Three Contestant's Weekly Leadership Campaign Return forms

The financial agent of a leadership contestant must prepare a *Contestant's Weekly Leadership Campaign Return* (EC 20193) [✓] for each of the three weeks after the period referred to above. This means that a return must be prepared for each of the three weeks leading up to the last week of the leadership contest. The financial agent must submit each return to the Chief Electoral Officer no later than one week after the end of the period to which the return relates.

[435.31(2), 435.31(3)]

Leadership Campaign Return

The financial agent must complete and submit the *Contestant's Leadership Campaign Return* (EC 20192) [✓] within six months after the end of a leadership contest. All campaign transactions from the date the first contribution was accepted or the first expense incurred must be reported in the return.

[435.3(6)]

The financial agent makes all entries concerning the financial transactions of the campaign in the return and transmits these documents as soon as possible to the auditor (if applicable), along with the *Leadership Contestant's Statement of Personal Expenses* (EC 20197) [✓]. An auditor's report is required if the leadership contestant has accepted total contributions of \$5,000 or more, or has incurred leadership campaign expenses totalling \$5,000 or more. The financial agent must give the auditor sufficient time to perform the audit before the deadline for submitting the return to the Chief Electoral Officer.

[435.33(1)]

The financial agent must provide the auditor with access to:
[435.3(3)]

- bank statements, deposit slips and cancelled cheques
- a list of cheques issued but not yet cashed at the bank
- copies of all bills, vouchers, and pro forma invoices
- copies of all receipts issued
- details of loans obtained
- details of the proceeds of fundraising functions and other miscellaneous revenues
- the *Contestant's Leadership Campaign Return* (EC 20192) ¹⁰

After the auditor has performed the audit and the financial agent has made any necessary changes in the return, the agent can complete the *Contestant's Leadership Campaign Return* (EC 20192) ¹⁰, making sure that he or she makes no changes to the final figures unless the agent has consulted the auditor. The agent should then submit the completed return to the auditor for final verification, to permit completion of the audit report.

The detailed forms necessary to complete the return are included in the leadership contestant's kit. (An electronic version of the return is also available on the Elections Canada Web site at www.elections.ca.) The financial agent must submit the return, along with the audit report and all supporting documentation, to the Chief Electoral Officer within six months from the end of the leadership contest.
[435.3(6)]

After the period of six months provided for the submission of the *Contestant's Leadership Campaign Return* (EC 20192) ¹⁰, the Chief Electoral Officer will publish (in the manner he or she considers appropriate) the contestant's return.
[412(2)(b)]

6.2 Content of the *Contestant's Leadership Campaign Return*

The *Contestant's Leadership Campaign Return* (EC 20192) ¹⁰, which the financial agent must send to the Chief Electoral Officer within six months after the end of the leadership contest, consists of four main parts.

Part 1 – Declaration

This part contains the declarations of the leadership contestant and the financial agent regarding the completeness and accuracy of the return, and lists the documents being submitted as part of the return.

[435.3(1)(c), 435.3(1)(d)]

Part 2a – Statement of Contributions Received on or After January 1, 2004

This part lists all contributions received from individuals.

In the case of contributions from individuals who have given a total amount of more than \$200, the part includes:

[404.4(2), 435.3(2)(d), 435.3(2)(e)]

- the date each contribution was received
- the name and address of each individual
- the amount of each contribution and the aggregated total amount of contributions
- the amount and number of all monetary and non-monetary contributions of \$200 or less
- the amount and approximate number of anonymous monetary and non-monetary contributions of \$20 or less

Part 2b – Statement of Directed Contributions Received from the Registered Party

This part lists the details for persons who made directed contributions for the leadership contestant through the registered party. The information listed for each person includes:

[404.2(3)(c), 435.3(2)(f)]

- the name
- the address
- the amount of the directed contribution to the party
- the date the contribution was received by the party
- the amount transferred to the contestant
- the date on which the money was transferred

Part 2c – Statement of Contributions Received – Details of Operating Loans

This part lists the name and address of each lender, and the date and the principal of the loan. A repayment schedule and a statement of conditions must be attached for all loans.

[435.3(2)(d.1), 435.3(5)]

Part 2d – Statement of Contributions Received – Contributions Returned to Donors or Otherwise Dealt with in Accordance with the Act

This part lists the name and address of each contributor, and the amount of the contribution (or the commercial value of property or service provided) that was received by the financial agent or the leadership campaign agent and subsequently returned to the donor or remitted to the Chief Electoral Officer. The financial agent must also indicate the date on which each contribution was received and returned or remitted.
[435.3(2)(h)]

Part 2e – Statement of Transfers Received

This part provides details of the non-monetary transfers received from the registered party and district associations. The information includes the amount of the transfer, the name of the transferor, and the date the leadership contestant received the transfer.
[404.3(1)]

Part 2f – Statement of Cash Inflows Other Than Contributions, Loans and Transfers

This part provides details of cash inflows other than contributions, loans and transfers. In particular, this form shows the non-contribution portion of fundraiser revenue, bank interest, refunds from suppliers, the returned portion of any cash advances, the proceeds from the sale of residual assets, and other sources of cash inflows.
[435.44]

Part 2g – Summary of Contributions, Loans, Transfers and Other Cash Inflows

This part summarizes all contributions and transfers received (money, property, services and discounts) and provides a summary of the other cash inflows to the campaign.
[404.3(1), 404.4(2), 435.3(2)(c), 435.3(2)(d), 435.3(2)(d.1) 435.3(2)(e), 435.3(2)(f), 435.3(2)(h), 435.3(5), 435.44]

Part 3a – Statement of Leadership Campaign Expenses

This part lists all the leadership contestant's leadership campaign expenses (including personal expenses) by date, and provides:
[435.3(2)(a)]

- the name of the supplier
- the cheque and voucher numbers
- the amount paid
- the non-monetary contribution received or the amount unpaid
- a classification of the expense and its commercial value

Part 3b – Statement of Expenses Other Than Leadership Campaign Expenses

This part provides the financial agent with a way to give further details about those campaign expenses that are not included in the leadership campaign expenses of the contestant. It lists the name of the supplier, cheque number, voucher number, amount of discount, unpaid amount, expenditure classification, loan payments and monetary transfers to the registered party and association of the registered party.
[404.3(2)(a), 435.3(2)(g)]

Part 3c – Statement Concerning Personal Expenses Declared in Part 3a, column 7

This part is a summary of the leadership contestant's personal expenses, classified by the nature of the expenditure, including:
[435.3(2)(a), 435.36(1)]

- the cost of transportation
- temporary lodging, meals and incidental expenses
- other necessary personal expenses related to the campaign

Part 3d – Statement of Unpaid Claims Declared in Part 3a

This part provides a list of claims that remain unpaid, indicating the amount of the claim and the name of the supplier. If the claim is subject to judicial proceedings for its recovery, the financial agent must note the disputed amount next to the agreed amount.
[435.3(2)(b), 435.3(2)(c)]

Part 4 – Campaign Financial Summary

This part provides a summary of all financial information on the return that will be published by the Chief Electoral Officer. In particular, the contributions, expenses, surplus, and bank reconciliation are clearly identified and summarized.
[435.3(2)]

6.3 Auditor's Report

If the leadership contestant has accepted contributions of \$5,000 or more in total, or incurred leadership campaign expenses of \$5,000 or more, the financial agent must include the auditor's report with the return. The report must be prepared in accordance with generally accepted auditing standards, and must give an opinion on whether the return fairly presents the information contained in the financial records on which it is based.
[435.33(1)]

6.4 Leadership Contestant's Statement of Personal Expenses

Within five months of the end of the leadership contest, the leadership contestant must submit to the financial agent:

[435.36(1)(a), 410(1), 410(2)]

- the *Leadership Contestant's Statement of Personal Expenses* (EC 20197) [~] indicating expenses paid by the leadership contestant and not reimbursed by the financial agent
- all supporting vouchers, and proof of payment for any personal expense of \$50 or more
- proof of payment for any expenses under \$50

The contestant must submit the *Leadership Contestant's Statement of Personal Expenses* (EC 20197) [~] to the financial agent, even if he or she has incurred no personal expenses.

[435.36(1)(b)]

6.5 Supporting Documentation

Along with the return, the financial agent must file the financial agent's and leadership contestant's declarations, and all documents supporting the expenses set out in the return, including bank statements, deposit slips and cancelled cheques.

[435.3(3)]

If goods or services are contributed by a person who normally sells such goods or services, the financial agent should obtain from the contributor a pro forma invoice showing the commercial value of the goods or services donated.

[2(1) "commercial value", 435.3(3)]

If the goods or services are being donated by a person who does not issue invoices, the contributor or the financial agent should prepare a pro forma invoice showing the date of the contribution; the name, address and class of the contributor; the nature of the goods or services contributed; and their commercial value.

[2(1) "commercial value", 2(2), 435.3(3)]

If the Chief Electoral Officer is of the opinion that the supporting documents provided are not sufficient, he or she may require the financial agent to provide by a specified date any additional documents that are necessary to comply with the Act.

[435.3(4)]

6.6 Deadline for Filing

When and Where

Within six months of the end of the leadership contest, the financial agent must provide to the Chief Electoral Officer the *Contestant's Leadership Campaign Return* (EC 20192) [✓], accompanied by the declarations by the leadership contestant and the financial agent, the auditor's report (if applicable) and the *Leadership Contestant's Statement of Personal Expenses* (EC 20197) [✓].

[435.3(1)(c), (d), 435.3(6)]

A leadership contestant or financial agent may apply to a judge for an order relieving the financial agent from the obligation of providing the *Contestant's Leadership Campaign Return* (EC 20192) [✓] if the documents have been destroyed by a superior force, including a flood, fire or other disaster. The person applying for the order must notify the Chief Electoral Officer that he or she has made the application.

[435.42]

Extension by the Chief Electoral Officer

If the financial agent cannot send the return within six months of the end of the leadership contest, the financial agent or the leadership contestant may apply to the Chief Electoral Officer before the expiry of this six-month period for an authorization to send the return and declarations within an extended time.

[435.38]

An application for an extension may only be granted by the Chief Electoral Officer if the application arose for one of the following reasons:

- the illness of the applicant
- the absence, death, illness or misconduct of the financial agent or a predecessor
- the absence, death, illness or misconduct of an agent, a clerk or an officer of the financial agent, or a predecessor of one of them, or
- inadvertence or an honest mistake of fact

If the Chief Electoral Officer refuses to authorize an extension, or if the financial agent is unable to file the return within the extended time, the contestant or agent may apply to a judge to allow the return, auditor's report (if required) and declarations to be sent within an extended time. The contestant or agent must apply within two weeks of the rejection or within two weeks of the expiration of the extended period, as the case may be. The extension may only be granted on the basis of one of the grounds set out above.

[435.39]

If the required documents are not filed within the six-month period and no authorization has been requested of the Chief Electoral Officer, the financial agent and the leadership contestant may be liable to prosecution.

[497(1)(q.08), 497(1)(q.1), 497(1)(q.12), 497(1)(q.16)]

6.7 Amended Return

Errors and Omissions

The Chief Electoral Officer may, in writing, request the financial agent or the leadership contestant to amend the return within a specified period.

[435.37(1), 435.37(2)]

The leadership contestant or the financial agent may apply to a judge for an order relieving him or her from complying with a request to correct the return. The contestant or the agent must apply within the time period specified by the Chief Electoral Officer for the correction, or within two weeks after the expiration of that period. He or she must also notify the Chief Electoral Officer of the application.

[435.39(1), 435.39(2)]

Authorization of the Chief Electoral Officer

As soon as a leadership contestant or financial agent becomes aware of the need for a correction, either of them may make a written application to the Chief Electoral Officer to authorize a correction. The Chief Electoral Officer may authorize the correction of the *Contestant's Leadership Campaign Return (EC 20192)* ¹, or any updated document since the original filing, on being satisfied by the evidence submitted that the reason for the application was:

[435.38(1), 435.38(2), 435.38(3)]

- the illness of the applicant
- the absence, death, illness or misconduct of the financial agent or a predecessor
- the absence, death, illness or misconduct of an agent, a clerk or an officer of the financial agent, or a predecessor of one of them, or
- inadvertence or an honest mistake of fact

Corrections by the Chief Electoral Officer

The Chief Electoral Officer may correct a *Contestant's Leadership Campaign Return (EC 20192)* ¹, or any updated document provided since the original filing, if the correction does not materially affect its substance.

[435.37(1)]

For example, the reclassification of an expense would be the type of correction that the Chief Electoral Officer could make to a *Contestant's Leadership Campaign Return* (EC 20192) ¹⁰. However, an omission in the return could not be remedied by the Chief Electoral Officer's correction and the financial agent would have to file an updated version of the return.

Payment of Unpaid Claims

When, after the six-month period of the selection day, one of the following occurs:

- an unpaid claim is paid, with the authorization of the Chief Electoral Officer or a judge
- a disputed claim is made in accordance with court proceedings, or
- a claim is paid whereby the period for sending the invoice was extended because of the death of the claimant

the financial agent must provide an updated return to the Chief Electoral Officer within 30 days of making the payment. If the original claim had been subject to an audit as part of the audit of the return, the updated return does not need to be audited.
[435.35]

If a claim remains unpaid in whole or in part on the day that is 18 months after the end of the leadership contest, the amount is deemed to be a contribution to the leadership contestant made on the day the expense was incurred and is subject to contribution limits.
[435.29(1)]

The Chief Electoral Officer will publish the unpaid claim deemed to be a contribution.
[435.29(4)]

This provision does not apply to:
[435.29(2)]

- a claim that is the subject of a binding agreement to pay
- a claim that is the subject of a legal proceeding to secure its payment
- a claim that is the subject of a dispute over the amount the leadership contestant was liable to pay, or the amount that remains unpaid, or
- a claim that has been written off by the creditor as an uncollectible debt, in accordance with the creditor's normal accounting practices

If a leadership contestant or a financial agent believes that any of these circumstances apply to an unpaid claim disclosed in the return already filed, the contestant or agent must notify the Chief Electoral Officer accordingly before the day that is 18 months after the end of the leadership contest.

[435.29(3)]


Retention Period for Records


The *Income Tax Act* requires that the financial agent of a registered association keep records and books of accounts for all amounts contributed and all expenditures made, so that these amounts can be verified. For general elections, the official agents of candidates must retain these records for two full years after the end of the calendar year to which the records or books of accounts relate. Since no similar retention period has yet been established for the books and records of leadership contestants, we recommend that the financial agent keep them for two full years.

[*Income Tax Act*, 230.11]

For example, if a leadership contest finished on November 12, 2005, the financial agent or contestant should retain the contest's books and records until December 31, 2007.

6.8 Content of the Contestant's Weekly Leadership Campaign Return

The financial agent for a leadership contestant must submit the *Contestant's Weekly Leadership Campaign Return* (EC 20193)  to the Chief Electoral Officer four times. The first return covers the period beginning on the first day of the leadership contest and ending on the day that is four weeks before the end of the leadership contest. Then the financial agent must submit this return for each of the next three weeks.

The *Contestant's Weekly Leadership Campaign Return* (EC 20193)  has three parts: campaign information and declaration, cash inflows and cash outflows.

Part 1 – Declaration

This part provides information on the contest, the contestant and the financial agent. It also includes the declaration of the financial agent about the completeness and accuracy of the report.

Part 2a – Statement of Contributions Received

This part lists all contributions received from individuals, including the date each contribution was received, the individual's name and address, the amount of all aggregated monetary and non-monetary contributions from contributors who have made total contributions of over \$200, the amount and number of all monetary and non-monetary contributions of \$200 or less, and the amount and approximate number of anonymous monetary and non-monetary contributions of \$20 or less collected in response to a general solicitation at a meeting or fundraiser.

Part 2b – Statement of Directed Contributions Received from the Registered Party

For all directed contributions transferred from the registered party, this part lists the full name and address of the original contributor, the amount of the contribution to the party, the amount of the contribution that is directed, the amount transferred from the party and the date the transferred amount is received by the leadership campaign.

Part 2c – Statement of Contributions Received – Details of Operating Loans

This part lists the date the financial agent received the loan, the name and address of the lender, the name of the loan's guarantor and the principal for all loans incurred by the campaign. The maximum amount drawn against an overdraft or line of credit, along with the name and address of the financial institution and the interest rate charged, are also disclosed. The repayment schedule and a list of any conditions on the loan must be attached.

Part 2d – Statement of Contributions Received – Contributions Returned to Donors or Otherwise Dealt with in Accordance with the Act

This part lists the date on which the financial agent received the contribution, if known, the name and address of the contributor, the amount or commercial value of any contribution that the financial agent returned to the donor or remitted to the Chief Electoral Officer and the date at which the financial agent returned or remitted the contribution.

Part 3 – Statement of Transfers to a Registered Party or a Registered Association

This part lists the date at which the financial agent sent the transfer, the name of the transferee and the monetary or non-monetary amount transferred to the registered party or a registered association of the registered party.

6.9 Content of the *Leadership Contestant's Registration Report*

The *Leadership Contestant's Registration Report* (EC 20209)  has four parts:

- Statement of Contributions Received Between January 1, 2004 and the Application for Registration
- Statement of Contributions Received Before January 1, 2004
- Statement of Contributions Received – Details of Operating Loans
- Summary of Contributions Received Before the Application for Registration

Part 1 – Statement of Contributions Received Between January 1, 2004 and the Application for Registration

In this part, the financial agent must give the full name and address of each contributor who has donated a total amount of funds, and goods or services, greater than \$200 as well as the amount and number of all monetary and non-monetary contributions of \$200 or less, and the amount and approximate number of anonymous monetary and non-monetary contributions of \$20 or less collected in response to a general solicitation at a meeting or fundraiser.

[435.06(2)(d), (e), 435.3(2)(d)]

Part 2 – Statement of Contributions Received Before January 1, 2004

In this part of the form, the financial agent reports all contributions that he or she received before January 1, 2004, using as many pages as necessary and carrying forward the totals from previous pages.

[435.06(2)(d), (e), 435.3(2)(d)]

Part 3 – Statement of Contributions Received – Details of Operating Loans

In this part of the return, the financial agent must provide information on any loans taken out by the campaign by listing the date he or she received the loan, the name and address of the lender, the name of the loan's guarantor and the principal for all loans incurred by the campaign. The maximum amount drawn against an overdraft or line of credit, along with the name and address of the financial institution and the interest rate charged, must also be disclosed. The repayment schedule and a list of any conditions on the loan must be attached.

[435.06(2)(d), (e), 435.3(2)(d.1)]

Part 4 – Summary of Contributions Received Before the Application for Registration

In this part, the financial agent summarizes the contributions and loans reported in parts 1, 2 and 3.

7. Closing Out the Campaign

7.1 Steps for Closing


To close out the leadership campaign, the financial agent must take three steps:
[435.21(4)]

1. deal with unpaid claims in accordance with the Act
2. dispose of any surplus
3. close the campaign bank account

7.2 Definition of Surplus

The surplus amount of leadership campaign funds is the amount by which the contributions accepted by the financial agent or the leadership campaign agent on behalf of the contestant (and any other amounts received by the contestant for the campaign that are not repayable) are more than the total amount of the contestant's campaign expenses plus any transfers from a leadership contestant to the registered party or registered association.
[404.2(3)(b), 435.44]

7.3 Notice of Estimated Surplus

If the Chief Electoral Officer estimates that the contestant has a surplus of campaign funds, the Chief Electoral Officer will issue a notice of the estimated amount of surplus to the contestant's financial agent, who will then be required to submit the *Leadership Contestant's Statement of Surplus* (EC 20198) .
[435.45(1)]

7.4 Disposition of Surplus

The financial agent of a leadership contestant is required to dispose of the surplus of leadership campaign funds within 60 days of receiving from the Chief Electoral Officer, the notice of estimated surplus. The financial agent must transfer any excess of revenues over expenses and transfers to the registered party holding the leadership contest or to a registered association of that party.
[435.46]

7.5 Filing the *Leadership Contestant's Statement of Surplus*

Within seven days of disposing of a contestant's surplus campaign funds, the financial agent must submit the *Leadership Contestant's Statement of Surplus* (EC 20198) [~] to the Chief Electoral Officer, indicating the amount and date of the disposal, and to whom the surplus was transferred.

[435.47(1)]

The Chief Electoral Officer will publish this information as soon as practicable after the surplus of campaign funds has been disposed of by the financial agent.

[435.47(2)]

7.6 Where No Estimate Received

The financial agent of a leadership contestant who has a surplus of leadership campaign funds, but who has not received a notice of estimated surplus, must dispose of the surplus within 60 days of submitting the *Contestant's Leadership Campaign Return* (EC 20192) [~].

[435.45(2)]

7.7 Closing the Campaign Bank Account

After the end of the leadership contest, and once any unpaid claims and surplus of leadership campaign funds have been dealt with, the financial agent must close the campaign bank account. He or she must then forward all remaining deposit slips, returned cheques and bank statements (including the one that confirms the closure of the account) to the Chief Electoral Officer.

[435.21(4), 435.21(5)]

8. Compliance and Enforcement

8.1 Commissioner of Canada Elections and Director of Public Prosecutions

The Commissioner of Canada Elections is appointed by the Chief Electoral Officer. Both the Commissioner and the Director of Public Prosecutions have responsibilities for compliance and enforcement under the *Canada Elections Act*. The Commissioner assesses each case brought to his or her attention in light of the Act and the particular circumstances of the case.

If the Commissioner believes, on reasonable grounds, that an offence has been committed under the *Canada Elections Act*, he or she may refer the matter to the Director of Public Prosecutions, who will decide whether to initiate a prosecution. The prosecution of offences under the Act can only be undertaken with the prior written consent of the Director of Public Prosecutions. A prosecution for an offence under the Act must be instituted within five years after the day on which the Commissioner becomes aware of the facts giving rise to the prosecution, and not later than 10 years after the day on which the offence was committed.

In addition to the power to refer matters for possible prosecution to the Director of Public Prosecutions, the Commissioner may also apply for injunctions and enter into compliance agreements to ensure compliance with the Act. In an effort to educate and to promote compliance with the Act, the Commissioner may issue a formal caution to a person who may have committed an offence under the Act.

During an election period, the Commissioner may apply to a competent court for an injunction if the Commissioner has reasonable grounds to believe that a person has committed, is about to commit or is likely to commit an act or omission that is contrary to the Act. The court may order any person to refrain from committing any act that appears to the court to be contrary to the law, or to perform any act that appears to the court to be required by the law.

The Commissioner may also enter into a compliance agreement with any person to ensure compliance with the Act. The Commissioner may enter into a compliance agreement if he or she believes on reasonable grounds that a person has committed, is about to commit or is likely to commit an act or omission that is contrary to the Act. A compliance agreement may contain any terms or conditions that the Commissioner considers necessary to ensure compliance with the Act.

8.2 Offences and Penalties

All of the offences and penalties for violations of the *Canada Elections Act* are found in Part 19 of the Act.

Penalties vary for convictions, depending on the offence, the procedure selected to prosecute and the seriousness of the offence. Many offences have penalties that can result in fines, imprisonment or both. Section 500 of the Act should be consulted with respect to the specific potential penalties for conviction for a particular offence.

[500]

The Act also enables a court to impose additional penalties once a person has been convicted, having regard to the nature of the offence and the circumstances surrounding its commission. A person may be liable, in addition to any other penalty, to:

[501]

- perform community service
- pay an amount to the Receiver General if the offence resulted in a financial benefit
- compensate any other person who has suffered damages as a result of the commission of the offence
- perform any obligation the non-performance of which gave rise to the offence, or
- take any other reasonable measure that the court considers appropriate to ensure compliance with the Act

Certain offences, listed in section 502 of the Act, are known as “illegal or corrupt” practices. For persons convicted of illegal or corrupt practices, the Act provides for further penalties. As well as any other penalty that may be imposed, a person found guilty of one of these offences loses the right to be a candidate in a federal election, to sit as a member in the House of Commons and to hold any office to which the incumbent is appointed by the Crown or by Governor in Council – for five years in the case of an illegal act, and for seven years in the case of corrupt practices.

[502]

